

NOTICE ASSIGNMENT CONTROL SHEET

LOG CONTROL NUMBER: 145 ANALYST
ASSIGNED: HYLER
ACTION: NPRM

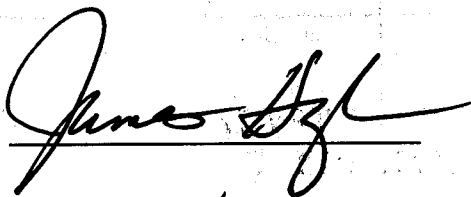
TITLE: FEDERAL PERKINS LOAN PROGRAM, FEDERAL
FAMILY EDUCATION LOAN PROGRAM, AND WILLIAM D.
FORD FEDERAL DIRECT LOAN PROGRAM

RECEIVED: 5/8/2008

DATE ASSIGNED: 5/8/2008

DATE DUE: 5/12/2008

ANALYST SIGNATURE:



COMPLETION DATE:

5/13/08

FINAL APPROVAL:



DATE: 5-13-08

OMB NO: 1845-0040, 0020, XXX1, XXX2, 0031, XXX3
0053, 0017

REG PART:

* note this is approval only for informal
review stage at OMB, NOT NARS submission
which will follow.

Rudolph, Kim

From: Hyler, James
Sent: Monday, May 12, 2008 11:16 AM
To: McFadden, Elizabeth; Young, Leslie
Cc: Mullan, Kate; Rudolph, Kim; Arrington, Angela; Klock, Dan; Utz, Jon; Moran, Pamela
Subject: RE: NPRM - LOANS PROGRAM (EXPEDITE: CMTS DUE 9AM MONDAY, MAY 12TH)

Leslie: RIMs approves this draft of the NPRM for submission to OMB. Per usual we do want to see the doc when it goes through clearance again before the final NPRM.

Thanks, James

-----Original Message-----

From: McFadden, Elizabeth
Sent: Thursday, May 08, 2008 4:27 PM
To: Young, Leslie; Bryant, Annora; Keeling, Alycyn; Dean, Andrew; Woodsome, James; Wade, Maria; Cubarrubia, Archie; McFadden, Elizabeth; Jenkins, Harold; McGrath, Jack; Monblatt, Bruce; Rudolph, Kim; Holloway, Michael; Knight, Pat; Bayer, Christopher; Howard, Pat; Baker, Jeff; Esters, Lorenzo; Baker, Jeff
Cc: Skandera, Hanna; Tada, Wendy; La Force, Hudson; Link, Philip; Langford, Lindsey; Taylor, Jeff; Higgins, Shannan; Siegel, Brian; Stutz, Robert; Beetle, Naty; Hyler, James; Mullan, Kate; Howard, Khriss; Boucher, Richard; Whitehead, Cara; Moran, Robert; Bergeron, David; Jones, Diane; Talbert, Kent; Campbell, Ellen; Moran, Pamela; Kanter, Lisa; Harris, Nikki; Kolotos, John; Smith, Brian
Subject: FW: NPRM - LOANS PROGRAM (EXPEDITE: CMTS DUE 9AM MONDAY, MAY 12TH)

All --

We apologize for any confusion. The attachments from the original e-mail (that was recalled) are attached.

Thanks.

Elizabeth

>
>From: Young, Leslie
>Sent: Thursday, May 08, 2008 3:52 PM
>To: Young, Leslie; Bryant, Annora; Keeling, Alycyn; Dean, Andrew; Woodsome, James; Wade, Maria; Cubarrubia, Archie; McFadden, Elizabeth; Jenkins, Harold; McGrath, Jack; Monblatt, Bruce; Rudolph, Kim; Holloway, Michael; Knight, Pat; Bayer, Christopher; Howard, Pat; Baker, Jeff; Esters, Lorenzo; Baker, Jeff
>Cc: Skandera, Hanna; Tada, Wendy; La Force, Hudson; Link, Philip; Langford, Lindsey; Taylor, Jeff; Higgins, Shannan; Siegel, Brian; Stutz, Robert; Beetle, Naty; Hyler, James; Mullan, Kate; Howard, Khriss; Boucher, Richard; Whitehead, Cara; Moran, Robert; Bergeron, David; Jones, Diane; Talbert, Kent; Campbell, Ellen; Moran, Pamela; Kanter, Lisa; Harris, Nikki; Kolotos, John; Smith, Brian; McFadden, Elizabeth
>Subject: RE: NPRM - LOANS PROGRAM (EXPEDITE: CMTS DUE 9AM MONDAY, MAY 12TH)

>
>All,
>
>Comments are due 9AM Monday, May 12th.

>
>
>From: Young, Leslie
>Sent: Thursday, May 08, 2008 3:47 PM
>To: Bryant, Annora; Keeling, Alycyn; Dean, Andrew; Woodsome, James;
>Wade, Maria; Cubarrubia, Archie; McFadden, Elizabeth; Jenkins, Harold;
>McGrath, Jack; Monblatt, Bruce; Rudolph, Kim; Holloway, Michael;
>Knight, Pat; Bayer, Christopher; Howard, Pat; Baker, Jeff; Esters,
>Lorenzo; Baker, Jeff

>Cc: Skandera, Hanna; Tada, Wendy; La Force, Hudson; Link, Philip;
>Langford, Lindsey; Taylor, Jeff; Higgins, Shannan; Siegel, Brian;
>Stutz, Robert; Beetle, Naty; Hylar, James; Mullan, Kate; Howard,
>Khriss; Boucher, Richard; Whitehead, Cara; Moran, Robert; Bergeron,
>David; Jones, Diane; Talbert, Kent; Campbell, Ellen; Moran, Pamela;
>Kanter, Lisa; Harris, Nikki; Kolotos, John; Smith, Brian; McFadden,
>Elizabeth
>Subject: NPRM - LOANS PROGRAM (EXPEDITE: CMTS DUE 9AM MONDAY, MAY 12TH)
>
>Attached, for your expedited review and comment is a revised draft of the RAM and Notice
of proposed rulemaking for the Loans program. (For easy reference, a redlined version of
the NPRM is included). Since we have to submit this document to OMB right away, we would
appreciate a prompt response. Please provide your comments/concurrence to Pamela Moran,
Elizabeth McFadden and Leslie Young by 9am Monday, May 12th. Thank you.
>
>Attachments
>
>
> << File: LOANS NPRM Final Draft RAM 050808.doc >> << File:
> nprm.loans.redlined.050808.doc >> << File:
> nprm.loans.clean.050808.doc >>

DATE:

TO: The Secretary
Through: US _____
ES _____

THROUGH: GC

FROM: Diane Auer Jones
Assistant Secretary
Office of Postsecondary Education

SUBJECT: Regulatory Action Memorandum: Notice of Proposed Rulemaking (NPRM)--Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program.

ISSUE

Whether to approve an NPRM adding new regulations and revising existing regulations to implement changes made by the College Cost Reduction and Access Act of 2007 (CCRAA) (Pub. L. No. 110-84) to the Federal Perkins, FFEL, and Direct Loan Programs (the title IV student loan programs).

BACKGROUND

Section 492 of the Higher Education Act of 1965, as amended, (HEA) requires the Secretary, before publishing any proposed regulations for programs authorized by Title IV of the HEA, to obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from individuals and representatives of groups involved in the Federal student financial assistance programs, the Secretary must subject all proposed regulations to a negotiated rulemaking process.

This NPRM reflects the changes needed to implement provisions of the CCRAA. The CCRAA established a new Income-Based Repayment (IBR) plan for borrowers in the FFEL and Direct Loan programs, established a new loan forgiveness program in the Direct Loan program for borrowers employed by public service organizations, provided for increased special allowance subsidy payments on FFEL program loans for entities that qualify as not-for-profit loan holders, amended the definition of economic

hardship for title IV student loan borrowers, expanded the eligibility criteria for the military service deferment for military personnel, and established a new 13-month post-active duty deferment for certain members of the National Guard or Armed Forces.

This NPRM proposes to add new regulations and amend the existing title IV loan program regulations based on the results of the negotiated rulemaking process. Federal and non-Federal negotiators met over a period of four months beginning in January 2008 to negotiate the proposed changes. During these meetings, the negotiators reviewed and discussed drafts of proposed regulations. The negotiators reached consensus on the proposed regulations.

FISCAL HISTORY OF PROGRAM

The FY 2008 and FY 2009 budget authority for title IV loan programs follows:

Program (\$ in 000's)	FY 2008	FY 2009 President's Budget
Federal Family Education Loans	4,533,440	2,407,263
Federal Direct Student Loans	5,532,290	328,670
Federal Perkins Loans	64,327	0

SUMMARY OF MAJOR CHANGES

Income-Based Repayment (IBR) Plan

As provided by the CCRAA, the proposed regulations would implement the IBR plan for the FFEL and Direct Loan programs. Under the IBR plan--

- Borrowers can make reduced student loan payments after demonstrating that they meet the statutory definition

of partial financial hardship, which is an annual amount due on all the borrower's eligible FFEL and Direct Loans based on a 10-year repayment that exceeds 15 percent of the difference between the borrower's adjusted gross income (AGI) and 150 percent of the poverty line income for the borrower's family size.

- Borrower payments are applied first to accrued interest, then fees, and finally to principal, and the Secretary pays interest on a borrower's eligible loans for a period of up to three consecutive years if the borrower has a partial financial hardship and the borrower's payment is less than the accruing interest on the loan.

- Borrowers are required to document eligibility annually by certifying family size and providing the loan holder with written consent to the disclosure of the borrower's AGI and other tax return information.

- The outstanding balance and accrued interest on a borrower's eligible loans is repaid or cancelled if the borrower participated in the IBR plan and repaid the eligible loans for a period of 25 years under one or more statutorily specified repayment plans. The beginning date of the 25-year period would be July 1, 2009 (the effective date for IBR), except for those borrowers who repaid their loans under the Direct Loan income-contingent repayment (ICR) plan, who could have a beginning date as early as July 1, 1994 (the effective date for ICR).

Public Service Loan Forgiveness Program

The proposed regulations implement the Public Service Loan Forgiveness program in the Direct Loan program, under which the outstanding principal balance and accrued interest on a borrower's Direct Loan would be forgiven after a 10-year period if the borrower--

- Is not in default on the loan;
- Made 120 monthly payments on the loan after October 1, 2007, under certain repayment plans; and
- Is employed full-time by a public service organization at the time the 120 monthly qualifying payments were made and at the time loan forgiveness was requested and granted.

The proposed regulations would define several terms, including full-time employment and public service organization, that are needed to determine whether a borrower qualifies for loan forgiveness. The regulations also extend eligibility for forgiveness benefits to individuals serving in AmeriCorps positions and provide a method for acknowledging a lump sum AmeriCorps education award used to repay the borrower's eligible loans as eligible payments for this purpose. The regulations also incorporate the CCRAA provision that allows FFEL program borrowers who want to seek loan forgiveness under this program to obtain Direct Consolidation Loans.

Not-for-profit FFEL loan holders

The proposed regulations modify the regulations published on November 1, 2007, which included the CCRAA statutory definition of a not-for-profit loan holder and specified that an entity meeting this definition received increased special allowance payments on its loans. The proposed regulations incorporate the change made by Public Law 110-109 that removed the requirement that an entity qualified to be a not-for-profit loan holder, either directly or through an eligible lender trustee (ELT) relationship, be an eligible lender under the HEA. The regulations also outline the circumstances under which a State or non-profit entity is deemed to be owned or controlled by a for-profit entity, which include circumstances in which a for-profit entity has a sufficient ownership interest, as a member or shareholder of an entity, to control the State or non-profit entity, or employs or appoints a majority of the individuals who serve as trustees of the not-for-profit entity or who serve on the audit, executive, or compensation committees of the entity's board. The regulations also describe the documents that an entity must provide to the Secretary to demonstrate that it qualifies as an eligible not-for-profit holder, accompanied by the certification of both the entity's Chief Executive Officer and its external legal counsel, and require an annual recertification to ensure the entity's continued eligibility as a not-for-profit loan holder.

Economic Hardship

The proposed regulations incorporate the modified definition of economic hardship for purposes of the title IV loan economic hardship deferment by--

- Eliminating the debt-to-income provision under which a borrower was considered to have an economic hardship if the borrower was working full-time and had a Federal education debt burden that equaled or exceeded 20 percent of the borrower's income; and

- Defining the term "family size" and requiring that the borrower's family size be used in determining poverty line income based on the Poverty Guidelines published by the Department of Health and Human Services.

Military Service Deferments

The proposed regulations modify the regulations published on November 1, 2007, which included the CCRAA-expanded military service deferments by incorporating earlier-published guidance used to implement the CCRAA changes and by creating a new category of forbearance to assist borrowers who qualify for the post-active duty student deferment, but who do not qualify for the military service deferment during their active State duty service period. The proposed regulations also clarify that the deferments apply to borrowers whose active duty service includes October 1, 2007, and clarify the definition of active duty service for purposes of the post-active duty student deferment.

ANTICIPATED REACTIONS TO THE NPRM

We reached consensus on the proposed regulations from the negotiated rulemaking committee and expect strong support from the higher education community and student groups. Segments of the higher education community offering high-cost health profession programs, however, may continue to object to the removal of the income-to-debt ratio eligibility criteria from the economic hardship deferment provisions and urge the Department to retain those provisions. The statutory basis for these regulatory provisions was eliminated from the definition of economic hardship in section 435(o) of the HEA as part of the CCRAA. The November 1, 2007 title IV loan regulations retained these provisions to offer a satisfactory transition for affected borrowers until July 1, 2009, when repayment under the IBR plan becomes available.

COMMENTS BY PRINCIPAL OFFICES

Appropriate principal offices of the Department have reviewed this NPRM. This folder includes, on the left side, a summary sheet reflecting the completion of the Department's review.

DECISION

The Office of Management and Budget (OMB) has not waived review of this document. If you approve transmittal to OMB, please sign the NPRM. If you do not approve transmittal, please advise of any alternative action you wish to be taken and sign below.

Other/Comments:

Signature

Date

PREPARED BY: OPE/PPI/PBDS: PMORAN: 05/5/08: 502-7732

CONTACT: OGC/DRS: L.KANTER: 401-8300

ATTACHMENT:

Notice of Proposed Rulemaking